



December 1, 2016

***Ex Parte Letter***

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

**RE: WC Docket No. 11-42, Federal-State Joint Board on Universal Service Lifeline and Link Up Reform and Modernization**

**WC Docket No. 09-197, Telecommunications Carriers Eligible for Universal Service Support**

**WC Docket No. 10-90, Connect America Fund**

Dear Ms. Dortch:

On Wednesday, November 30, 2016, the undersigned and Brian Ford with NTCA–The Rural Broadband Association (“NTCA”)<sup>1</sup> spoke via telephone with Lisa Hone, Wireline Legal Advisor to Chairman Tom Wheeler. The parties discussed the October 24, 2016 NTCA and WTA Petition<sup>2</sup> seeking a temporary waiver from the requirement in the *Lifeline Modernization Order*<sup>3</sup> that compels high-cost support recipients to develop and offer a standalone broadband product to Universal Service Fund (“USF”) Lifeline-eligible consumers.<sup>4</sup>

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<sup>1</sup> NTCA represents nearly 900 rural rate-of-return regulated telecommunications providers (“RLECs”). All of NTCA’s members are full service local exchange carriers and broadband providers, and many of its members provide wireless, cable, satellite, and long distance and other competitive services to their communities.

<sup>2</sup> NTCA and WTA Petition for Temporary Waiver, WC Docket No. 11-42, et al., (fil. Oct. 24, 2016).

<sup>3</sup> Lifeline and Link Up Reform and Modernization, WC Docket No. 11-42, Telecommunications Carriers Eligible for Universal Service Support, WC Docket No. 09-197, Connect America Fund, WC Docket No. 10-90, Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38 (rel. Apr. 27, 2016) (“*Lifeline Modernization Order*”).

<sup>4</sup> *Id.*, fn.133.

By way of background, NTCA has long sought greater capability for its members to offer standalone broadband in the face of prior rules that deterred, if not effectively precluded, such offerings by RLECs in many rural areas. Recent changes to the High Cost program offered the promise of RLECs being able to do so for the first time in a more effective way. But as NTCA noted in its Petition for Reconsideration<sup>5</sup> of the *Rate-of-Return Reform Order*<sup>6</sup>, and as confirmed in the ensuing process of implementation, the structure of those High Cost reforms – particularly the budget control that will apply as of January 1, 2017<sup>7</sup> due to the insufficient High Cost Program budget – will result in most RLECs having to charge retail standalone broadband rates for *all* rural Americans (low-income or otherwise) that are still well in excess of what consumers pay in urban areas.

Indeed, as NTCA has explained in recent filings, putting aside any realization of actual margin or profit for the RLEC in providing the service (which one would normally expect in selling any service), the retail rate will include not only the regulated consumer-only broadband loop rates required by the reforms but also: (a) mandatory imputed Access Recovery Charges; (b) “second mile” and “middle mile” network transport costs; (c) dedicated Internet access transit costs; (d) costs associated with non-regulated operating functions such as Internet marketing and customer service help-desk functions; and (e) mandatory federal USF contribution charges that apply to the broadband-only loops. In addition to the examples provided in recent filings<sup>8</sup> of the high standalone broadband prices these will yield – again, for low-income and other rural consumers alike – NTCA described one member for whom the operation of the newly reformed support mechanism including the budget control will result in a consumer broadband-only loop rate of approximately \$220 per line *per month*. It is not unreasonable to expect that the addition of the other costs associated with delivering retail broadband Internet access service to rural consumers as noted above could push the end-user retail rate to over \$250 per month – a price that will be unaffordable for *any* customer, and a clear barrier to adoption that a \$9.25 discount for a low-income consumer would hardly help to overcome.

NTCA then noted that the High Cost program mechanisms that produce such rates for rural consumers, *low-income or otherwise*, naturally leads many RLECs to forego offering standalone broadband service altogether – simply put, it would be futile to develop, design, implement, and offer a product that few, if any, consumers (Lifeline-eligible or otherwise) could afford. (Even the High Cost program does not mandate the offering of standalone broadband currently – the mandate arises only in the Lifeline context.) NTCA further made clear that RLECs do not object to the requirement that eligible telecommunications carriers receiving high-cost support offer

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<sup>5</sup> NTCA, Petition for Reconsideration, WC Docket No. 10-90, *et al.* (fil. May 25, 2016).

<sup>6</sup> *Connect America Fund, et al.*, WC Docket No. 10-90, *et al.*, Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, FCC 16-33 (rel. March 30, 2016) (“*Rate-of-Return Reform Order*”).

<sup>7</sup> NTCA also noted that while the Lifeline standalone broadband requirement contained in fn. 133 of the *Lifeline Modernization Order* takes effect December 2, 2016, no rate-of-return carrier will receive any support for standalone broadband prior to January 1, 2017.

<sup>8</sup> NTCA and WTA ex parte letter, WC Docket No. 11-42, *et al.*, (fil. Nov. 29, 2016).

Lifeline-eligible consumers broadband service or offer them the very same choices (including standalone broadband) as are available to every other consumer in their service area or in urban areas for that matter. To the contrary, NTCA and its member companies would be delighted to offer standalone broadband offerings that are, in the first instance, *affordable and “reasonably comparable”* to that available in urban areas for every rural consumer, irrespective of income level – and NTCA and its member companies would be further delighted to offer Lifeline discounts off of services that are reasonably priced in the first instance. Unfortunately, at the present time, there is no realistic prospect that any rural consumer, low-income or otherwise, will be eager to obtain standalone broadband when the “starting price” for that service, even in the wake of High Cost reforms that ostensibly “fixed” the problem, is tens or even hundreds of dollars per month above what the same service costs in an urban area.

NTCA therefore renewed its request that the Commission take action at the same time it resolves other pending petitions in the Lifeline proceeding to waive temporarily the requirement that RLECs undertake the effort to create and track specialized standalone broadband Lifeline offerings for low-income rural consumers, at least until the underlying issues related to such offerings are addressed in the High Cost proceeding. **Specifically, NTCA urges the Commission to temporarily waive the requirement to establish a standalone broadband offering for low-income consumers only until such time as the issues noted above as raised by NTCA’s pending Petition for Reconsideration of the *Rate-of-Return Reform Order* are resolved, such that the rates for standalone broadband are more reasonable.** NTCA remains committed to working with the Commission on implementation of both Lifeline and High Cost reforms, seeing the promise of both as essential to the long-term success of both programs for the benefit of all consumers in rural America.

Thank you for your attention to this correspondence. Pursuant to Section 1.1206 of the Commission’s rules, a copy of this letter is being filed via ECFS.

Sincerely,  
/s/ Michael Romano  
Michael Romano  
Senior Vice President –  
Industry Affairs & Business Development

cc: Lisa Hone